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THE DOUBLE TAXATION CONVENTIONS

BETWEEN THE UNITED KINGDOM AND THE UNITED STATES

This paper contains certain of the provisions relating to the avoidance of double taxation in respect of income taxes and death duties. It is not legally authoritative as omissions, etc., have been made. Reference for this purpose should be made to the original conventions, copies of which may be referred to at B.I.S., New York, borrowed from the library on the inter-library loan system, or purchased from the Sales Section (minimum order 10¢).

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The Two Conventions are:

1. Taxes on Income (Cmd. 6902, 15¢)
2. Death Duties (Cmd. 6890, 5¢)

Inquiries on this subject of double taxation may be made to the

Legal Adviser to the British Embassy
Washington, D.C.

and addressed to him at

P.O. Box 304, New York 1, N.Y.

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The following information papers on taxation are also obtainable free of charge:

"United Kingdom Income Tax" (ID 729)
"Death Duties in Britain" (ID 746)

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I. INCOME TAX : DOUBLE TAXATION

This Convention, which was ratified on July 25th, 1946, is retrospective as respects U.S. tax to January 1st, 1945, and as respects U.K. tax to April 6th, 1945 in the case of income tax, to April 6th, 1944 in the case of surtax, and to April 1st, 1945 in the case of Excess Profits Tax and National Defense Contribution (now the Profits Taxes). It applies also to the Excess Profits Levy.

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Article I (part of)

(1) The taxes which are the subject of the present Convention are:

- (a) In the United States of America:
The Federal income taxes, including surtaxes and excess profits taxes.
- (b) In the United Kingdom of Great Britain and Northern Ireland:
The income tax (including surtax), the excess profits tax and levy and the profits taxes.

Article III (part of)

(1) A United Kingdom enterprise shall not be subject to United States tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, United States tax may be imposed upon the entire income of such enterprise from sources within the United States.

(2) A United States enterprise shall not be subject to United Kingdom tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, United Kingdom tax may be imposed upon the entire income of such enterprise from sources within the United Kingdom.

Article VI (part of)

(1) The rate of United States tax on dividends derived from a United States corporation by a resident of the United Kingdom who is subject to United Kingdom tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent.

(2) Dividends derived from sources within the United Kingdom by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such dividends and (c) not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom surtax.

Article VII

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax on such interest and not engaged in trade or business in the United States, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a corporation resident in the United Kingdom controlling, directly or indirectly, more than 50 per cent of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United Kingdom by a resident of the United States who is subject to United States tax on such interest and not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom tax; but such exemption shall not apply to such interest paid by a corporation resident in the United Kingdom to a United States corporation controlling, directly or indirectly, more than 50 per cent of the entire voting power in the paying corporation.

Article VIII

(1) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade-marks, and other like property, and derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax on such royalties or other amounts and not engaged in trade or business in the United States, shall be exempt from United States tax.

(2) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade-marks, and other like property, and derived from sources within the United Kingdom by a resident of the United States who is subject to United States tax on such royalties or other amounts and not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom tax.

(3) For the purposes of this Article the term "royalties" shall be deemed to include rentals in respect of motion picture films.

Article IX

(1) The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property or from an interest in such property, derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent: Provided that any such resident may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business in the United States.

(2) Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within the United Kingdom by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom surtax.

Article X (part of)

(1) Any salary, wage, similar remuneration, or pension, paid by the Government of the United States to an individual (other than a British subject who is not also a citizen of the United States) in respect of services rendered to the United States in the discharge of governmental functions, shall be exempt from United Kingdom tax.

(2) Any salary, wage, similar remuneration, or pension, paid by the Government of the United Kingdom to an individual (other than a citizen of the United States who is not also a British subject) in respect of services rendered to the United Kingdom in the discharge of governmental functions, shall be exempt from United States tax.

Article XI (part of)

(1) An individual who is a resident of the United Kingdom shall be exempt from United States tax upon compensation for personal (including professional) services performed during the taxable year within the United States if (a) he is present within the United States for a period or periods not exceeding in the aggregate 183 days during such taxable year, and (b) such services are performed for or on behalf of a person resident in the United Kingdom.

(2) An individual who is a resident of the United States shall be exempt from United Kingdom tax upon profits, emoluments or other remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and (b) such services are performed for or on behalf of a person resident in the United States.

Article XII (part of)

(1) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United States by an individual who is a resident of the United Kingdom shall be exempt from United States tax.

(2) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United Kingdom by an individual who is a resident of the United States shall be exempt from United Kingdom tax.

Article XIII (part of)

(1) Subject to section 131 of the United States Internal Revenue Code as in effect on the first day of January, 1945, United Kingdom tax shall be allowed as a credit against United States tax. For this purpose, the recipient of a dividend paid by a corporation which is a resident of the United Kingdom shall be deemed to have paid the United Kingdom income tax appropriate to such dividend if such recipient elects to include in his gross income for the purposes of United States tax the amount of such United Kingdom income tax.

(2) Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the United Kingdom, United States tax payable in respect of income from sources within the United States shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a United States corporation, such credit shall take into account (in addition to any United States income tax deducted from or imposed on such dividend) the United States income tax imposed on such corporation in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, such tax on profits shall likewise be taken into account in so far as the dividend exceeds such fixed rate.

(3) For the purposes of this Article, compensation, profits, emoluments and other remuneration for personal (including professional) services shall be deemed to be income from sources within the territory of the country where such services are performed.

Article XIV

A resident of the United Kingdom not engaged in trade or business in the United States shall be exempt from United States tax on gains from the sale or exchange of capital assets.

Article XVIII (part of)

A professor or teacher from one country who visits the other country for the purpose of teaching, for a period not exceeding two years, at a university, college, school or other educational institution shall be exempted by the country he visits from tax on his remuneration for such teaching for such period.

Article XIX (part of)

A student or business apprentice from one country who is receiving full-time education or training in the other country shall be exempted by such other country from tax on payments made to him by persons within the former country for the purposes of his maintenance, education or training.

II. DEATH DUTIES : DOUBLE TAXATION

Article I (part of)

(1) The taxes which are the subject of the present Convention are:

- (a) In the United States of America, the Federal estate tax, and
- (b) In the United Kingdom of Great Britain and Northern Ireland, the estate duty imposed in Great Britain.

Article III (part of)

(1) For the purposes of the present Convention, the question whether a decedent was domiciled in one of the countries at the time of his death shall be determined in accordance with the law in force in that territory.

(2) Where a person dies domiciled in one of the countries, the situs of any of the following rights or interests, legal or equitable, which for the purposes of tax form part of the estate of such person or pass on his death, shall, for the purposes of the imposition of tax and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the situs of such rights and interests shall be determined for those purposes in accordance with the law relating to tax in force in the territory of the other country:

- (a) Rights or interests (otherwise than by way of security) in or over immovable property shall be deemed to be situated at the place where such property is located;
- (b) Rights or interests (otherwise than by way of security) in or over tangible movable property, other than such property for which specific provision is hereinafter

made, and in or over bank or currency notes, other forms of currency recognized as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are located at the time of death, or, if in transitu, at the place of destination;

- (c) Debts, secured or unsecured, other than the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the decedent was domiciled at the time of death;
- (d) Shares or stock in a corporation other than a municipal or governmental corporation (including shares or stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized;
- (e) Monies payable under a policy of assurance or insurance on the life of the decedent shall be deemed to be situated at the place where the decedent was domiciled at the time of death;
- (f) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration or documentation of the ship or aircraft;
- (g) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;
- (h) Patents, trade marks and designs shall be deemed to be situated at the place where they are registered;
- (i) Copyright, franchises, and rights or licences to use any copyrighted material patent, trade mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;
- (j) Rights or causes of action ex delicto surviving for the benefit of an estate of a decedent shall be deemed to be situated at the place where such rights or causes of action arose;
- (k) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

Provided that if, apart from this paragraph, tax would be imposed by one country on any property which is situated in its territory and passes under a disposition not governed by its law, this

paragraph shall not apply to such property unless, by reasons of its application or otherwise, tax is imposed or would but for some specific exemption be imposed thereon by the other country.

Article IV (part of)

(1) In determining the amount on which tax is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the tax is imposed.

(2) Where tax is imposed by one country on the death of a person who at the time of his death was not domiciled in any part of the territory of that country but was domiciled in some part of the territory of the other country, no account shall be taken in determining the amount or rate of such tax of property situated outside the former territory: Provided that this paragraph shall not apply as respects tax imposed,

- (a) in the United States in the case of a United States citizen dying domiciled in any part of Great Britain; or
- (b) in Great Britain in the case of property passing under a disposition governed by the law of Great Britain.

Article V (part of)

(1) Where one country imposes tax by reason of a decendent's being domiciled in some part of its territory or being its national, that country shall allow against so much of its tax (as otherwise computed) as is attributable to property situated in the territory of the other country, a credit (not exceeding the amount of the tax so attributable) equal to so much of the tax imposed in the territory of such other country as is attributable to such property; but this paragraph shall not apply as respects any such property as is mentioned in paragraph (2) of this Article.

(2) Where each country imposes tax by reason of a decendent's being domiciled in some part of its territory, each country shall allow against so much of its tax (as otherwise computed) as is attributable to property which is situated, or is deemed under paragraph (2) of Article III to be situated,

- (a) in both countries, or
- (b) outside both countries,

a credit which bears the same proportion to the amount of its tax so attributable or to the amount of the other country's tax attributable to the same property, whichever is the less, as the former amount bears to the sum of both amounts.

Article VI

(1) Any claim for a credit or for a refund of tax founded on the provisions of the present Convention shall be made within six years from the date of the death of the decendent in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of tax is deferred until on or after the date on which the interest falls into possession, within six years from that date.

(2) Any such refund shall be made without payment of interest on the amount so refunded.

This Convention which was ratified on July 25th, 1946 is effective as to the estates of persons dying on or after July 25th, 1946, and to the estates of any person dying before July 25th, 1946 and after December 31st, 1944, whose personal representative so elects.

III. SUPPLY OF FORMS

Claims for repayment of tax and exemption at source for future payments, generally have to be made on certain specified forms. In many cases these forms are obtainable only on specific request in each case. As a general rule, therefore, it is better to write direct to the appropriate authority stating the facts of the case and the requirements. The authorities are:

1. The Inspector of Foreign and Colonial Dividends,
Lynwood Road, Thames Ditton,
Surrey, England;
2. The United States Collectors of Internal Revenue

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